

## **ANALYSIS OF 2007 LEGISLATIVE PROPOSAL SALES AND USE TAX SUGGESTION NO. 3-1**

**Prepared by  
Legislative Section**

**Expand Suggestion Number 3-1 of the November 20, 2006 agenda to further amend Section 6405 the Revenue and Taxation Code to broaden that exemption to include the first \$800 of tangible personal property purchased by individuals *from another state* (other than vehicles, vessels and aircraft) and personally hand carried into California within any 30-day period.**

**Source: Honorable Bill Leonard**

### **Pros**

- Since enforcement of the use tax law is difficult with respect to smaller purchases by individuals, and since voluntary compliance in self-reporting use tax is low – especially on items hand carried into California - such an exemption would enable Californians to make smaller purchases when traveling outside the state and remain legally compliant with the tax laws.
- It is discriminatory that the law provides for a use tax exemption for purchases by individuals who travel out of the country and not for individuals who travel within the United States. This proposed change would provide the same exemption for Californians traveling to other states, as the law currently provides for foreign travelers.
- This proposed exemption would have very minimal revenue impact to state and local governments. Aside from the fact that an insignificant amount of tax is currently reported on these transactions, there's a credit allowed under current law for any sales or use tax paid on items purchased in another state. Therefore, even if an individual were to remit the applicable use tax, after deducting the tax paid in the other state on the item, only a fraction, if any, of the remaining California use tax would be due.
- California wouldn't be the first state to provide individuals with a de minimus exemption from use tax. Minnesota and Colorado currently provide individuals with a use tax exemption for annual purchases of \$770 and \$100, respectively.

### **Cons**

- Voluntary compliance is the basic principle under which California's sales and use tax system operates. There's no compelling reason to exempt purchases that are personally hand carried into California from another state, just because voluntary compliance in reporting the tax is minimal.
- For individual consumers who purchase untaxed cigarettes from other states (who currently have a 400 cigarette excise tax exemption), a proposed use tax exemption for

the first \$800 in purchases could mistakenly be confused as an excise tax exemption. This could result in even less compliance with the cigarette tax laws.

- Monitoring the dollar amount of purchases by each individual to determine if hand carried purchases exceed \$800 in any 30-day period would be difficult to track in the event the Board were to conduct an audit.
- It is illogical to exempt purchases that are hand carried into California, but continue to tax items purchased over the Internet or through mail order and delivered from out of state to the California purchaser.

### **Proposed Law**

*Section 6405 of the Revenue and Taxation Code is amended to read:*

6405. (a) Notwithstanding Section 6246, the storage, use, or other consumption in this state of the first ~~four~~ eight hundred dollars ~~(\$400)~~ (\$800) of tangible personal property purchased in a foreign country outside this state by an individual from a retailer and personally hand carried into this state from the foreign country out of state location within any 30-day period is exempt from the use tax.

(b) This section shall not apply to any of the following:

(1) Property ~~property~~ sent or shipped to this state.

(2) The purchase of a vehicle, vessel or aircraft as defined in Article 1 (commencing with Section 6271) of Chapter 3.5 of this part.

(3) Persons required to hold a seller's permit pursuant to this part.

(4) Persons required to be registered pursuant to Section 6226.

(5) Persons who are holders of a use tax direct payment permit as described in Section 7051.3.